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| APPLICATION NO.   | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|-------------|----------------------|---------------------|------------------|
| 10/070,497  | 07/19/2002  | Pieter Van Dalen     | DCLERC 3            | 7026             |
| 23599   | 7590        | 12/21/2006           | EXAMINER            |                  |
| MILLEN, WHITE, ZELANO & BRANIGAN, P.C.<br>2200 CLARENDON BLVD.<br>SUITE 1400<br>ARLINGTON, VA 22201 |             |                      | DALENCOURT, YVES    |                  |
|   |             |                      | ART UNIT            | PAPER NUMBER     |
|   |             |                      | 2157                |                  |

| SHORTENED STATUTORY PERIOD OF RESPONSE | MAIL DATE  | DELIVERY MODE |
|--|------------|---------------|
| 3 MONTHS                               | 12/21/2006 | PAPER         |

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

|                              |                             |                     |  |
|------------------------------|-----------------------------|---------------------|--|
| <b>Office Action Summary</b> | <b>Application No.</b>      | <b>Applicant(s)</b> |  |
|                              | 10/070,497                  | VAN DALEN, PIETER   |  |
|                              | Examiner<br>Yves Dalencourt | Art Unit<br>2157    |  |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 14 September 2006.
- 2a) This action is FINAL.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-3,9-12,14-18 and 20-24 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-3,9-12,14-18 and 20-24 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All    b) Some \* c) None of:
  1. Certified copies of the priority documents have been received.
  2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

|  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

This office action is responsive to amendment filed on 09/14/2006.

### ***Response to Amendment***

The Examiner has acknowledged the amended claims 1 – 39 – 12, 14 – 17, the submission of new claims 20 – 24, and the cancellation of claims 4 – 8, 13, and 19.

### ***Response to Arguments***

Applicant's arguments filed on 09/14/2006 have been fully considered but they are not persuasive.

In response to applicant's **only argument** (pages 8 and 9), the recitation of "**a method for establishing e-mail communication and sending e-mail through PSTN "without the need of being connected to the Internet**" has not been given patentable weight because the recitation occurs in the preamble. A preamble is generally not accorded any patentable weight where it merely recites the purpose of a process or the intended use of a structure, and where the body of the claim does not depend on the preamble for completeness but, instead, the process steps or structural limitations are able to stand alone. See *In re Hirao*, 535 F.2d 67, 190 USPQ 15 (CCPA 1976) and *Kropa v. Robie*, 187 F.2d 150, 152, 88 USPQ 478, 481 (CCPA 1951).

In view of such, the rejection is as follow:

### ***Specification***

The following guidelines illustrate the preferred layout for the specification of a utility application. These guidelines are suggested for the applicant's use.

#### ***Arrangement of the Specification***

As provided in 37 CFR 1.77(b), the specification of a utility application should include the following sections in order. Each of the lettered items should appear in upper case, without underlining or bold type, as a section heading. If no text follows the section heading, the phrase "Not Applicable" should follow the section heading:

- (a) TITLE OF THE INVENTION.
- (b) CROSS-REFERENCE TO RELATED APPLICATIONS.
- (c) STATEMENT REGARDING FEDERALLY SPONSORED RESEARCH OR DEVELOPMENT.
- (d) THE NAMES OF THE PARTIES TO A JOINT RESEARCH AGREEMENT.
- (e) INCORPORATION-BY-REFERENCE OF MATERIAL SUBMITTED ON A COMPACT DISC.
- (f) BACKGROUND OF THE INVENTION.
  - (1) Field of the Invention.
  - (2) Description of Related Art including information disclosed under 37 CFR 1.97 and 1.98.
- (g) BRIEF SUMMARY OF THE INVENTION.
- (h) BRIEF DESCRIPTION OF THE SEVERAL VIEWS OF THE DRAWING(S).
- (i) DETAILED DESCRIPTION OF THE INVENTION.
- (j) CLAIM OR CLAIMS (commencing on a separate sheet).
- (k) ABSTRACT OF THE DISCLOSURE (commencing on a separate sheet).
- (l) SEQUENCE LISTING (See MPEP § 2424 and 37 CFR 1.821-1.825. A "Sequence Listing" is required on paper if the application discloses a nucleotide or amino acid sequence as defined in 37 CFR 1.821(a) and if the required "Sequence Listing" is not submitted as an electronic document on compact disc).

### ***Claim Objections***

Claim 1 is objected to because of the following informalities: It is suggested to delete "who/which" and insert --- who ---. Appropriate correction is required.

Claim 2 is objected to because of the following informalities: It is suggested to delete " acceptance " (line 5), and insert --- accepting ---; " storage " (line 6), and insert -- storing ---; " termination " (line 7), and insert --- terminating ---; " perceptibly indication " (line 8), and insert --- indicating perceptibly ---; " visual presentation of " (line 10), and insert --- presenting visually ---.

Claim 14 is objected to because of the following informalities: It is suggested to delete " mains " (line 16) and insert --- main ---.

***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 14 and 15 recite the limitation " invocation of the telecontrol graphical user interface program " in claim 14, line 11 and claim 15, line 6. There is insufficient antecedent basis for this limitation in the claim.

Claim 14 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claim 14, the limitation of " reception and evaluation of the instruction by the appliance control unit, which instructions are sent by a sender to the telemail device using a method of claim 1 (lines 17 and 18) is unclear. There were no instructions being sent by a sender to the telemail device in method claim 1.

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Claims 14 - 18 have not been rejected again with art because they are not written in a form to enable the examiner to perform a search in order to find the relevant art. The Examiner kindly suggested the Applicant to present claims 14 – 18 in a better form so that a search can be conducted.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1 – 3 and 9 – 12, 14 – 18, and 20 - 24 are rejected under 35 U.S.C. 102(e) as being anticipated by Ho et al (US 5,805,298; hereinafter Ho).

Regarding claim 1, Ho teaches a method for establishing e-mail communication between who/which both have access to the Public Switched Telephone Network, without the need of being connected to the Internet (fig. 1), comprising the steps of establishing the data link, and PPP connection between the sender and receiver application (col. 3, lines 36 - 43); and transferring the e-mail message (s) to receiver device over TCP/IP (col. 3, lines 43 - 47).

Regarding claims 2, 9 - 10, 20, and 22 – 24, Ho teaches a method according to claim 1, further comprising the steps of composing one or more electronic mail messages on the sender device through a graphical user interface (GUI) application (col. 4, lines 7 – 42; col. 5, line 15 through col. line 23); setting up a telephone connection from the sender device to receiver device; acceptance of the call by the receiver device; storage of the e-mail message(s) on the receiver device (col. 4, line 1 – 42; col. 5, line 15 through col. 6, line 23); termination of the data link and telephone connection (col. 4, lines 7 – 42; col. 5, line 15 through col. 6, line 23); perceptible indication that an e-mail message is received on a graphical user interface (GUI) application on the receiver device (col. 4, lines 7 – 42; col. 5, line 1 through col. 6, line 23).

Regarding claim 3, Ho teaches a method according to claim 2 or 3, further comprising the step of retrieving the telephone number of the receiver from a database (col. 6, lines 58 – 60; col. 7, lines 6 - 17).

Claims 11 and 12 substantively incorporate the limitations of claim 9. The reason for the rejection 9 apply to claims 11 and 12.

Regarding claim 21, the Examiner takes Official Notice that using an RS-232 interface is well known in the art. (see cited reference US 6,934,862).

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Sharood et al (US 6,934,862) discloses appliance retrofit monitoring device with a memory storing an electronic signature.

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**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

#### **Contac Information**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Yves Dalencourt whose telephone number is (571) 272-3998. The examiner can normally be reached on M-TH 7:30AM - 6: 00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ario Etienne can be reached on (571) 272-4001. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

December 8, 2006



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